

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Bitmain Technologies Ltd.,

Plaintiff,

v.

John Doe,

Defendant.

No. 2:18-cv-1626

PLAINTIFF'S EX PARTE MOTION TO
EXTEND TIME TO SERVE COMPLAINT
AND SUMMONS AND MEMORANDUM
IN SUPPORT

Plaintiff Bitmain Technologies Ltd., by and through counsel, and pursuant to Fed. R. Civ. P. 4(m), hidenereby move this Court for the entry of an Order extending time for service of the complaint on Defendant John Doe. In support of this Motion, Plaintiff refers the Court to the memorandum below.

MEMORANDUM IN SUPPORT

Rule 4(m) of the Federal Rules of Civil Procedure provides that a summons and complaint shall be served on a defendant within 120 days after the filing of the complaint. If the deadline is not met, the Rule allows for the Court to direct that service be effected within a time specified by the court in the exercise of its discretion. The complaint in this action was filed on November 7, 2018. The 120-day deadline under Rule 4(m) to serve the defendant is February 5, 2019. In this case, as explained herein, good cause exists to extend this deadline to allow the plaintiff additional time to identify the "John Doe" defendant.

1 Bitmain was the victim of a theft of Bitcoin valued in the millions of dollars that was
2 committed by defendant “John Doe.” As part of the crime, John Doe gained unauthorized access
3 to Bitmain’s digital wallet, intentionally concealed his or her true identity, and took steps to
4 complicate the digital trail left behind. Bitmain respectfully requests an extension of time in
5 which to serve the Defendant with the summons and complaint in this action because it has not
6 yet successfully determined the identity of the Defendant. As explained herein, Bitmain is
7 actively taking steps to identify and located the defendant there is good cause to extend the
8 service deadline.

9 As alleged in the Complaint [Doc. 1], and also explained in Bitmain’s motion requesting
10 permission to conduct immediate non-party discovery [Doc. 3], this is an action to recover stolen
11 Bitcoin (“BTC”) and other digital assets. Because the defendant committed this crime online,
12 took steps to hide his/her identity, and transferred the stolen digital assets between accounts, it
13 has been complicated and time consuming to identify him or her. To date, Bitmain has been able
14 to track transactions on the publicly accessible blockchain showing that digital assets that John
15 Doe illegally removed from its wallet on the Binance platform were transferred to accounts on a
16 different cryptocurrency trading platform. Bitmain subsequently issued a subpoena to that
17 trading platform and successfully obtained information about those accounts and the identities of
18 the people who opened them. With that information, Bitmain is currently in the process of
19 taking the next steps necessary to identify John Doe so that he or she can be served with the
20 complaint. More time is necessary, however, to uncover the potential layers of obfuscation that
21 the defendant put in place, and to follow the digital trail to the defendant’s identity.

22 The Court has broad discretion to extend time for service under Rule 4(m). *See, e.g.,*
23 *Mann v. Am. Airlines*, 324 F.3d 1088, 1090 (9th Cir. 2003) (“Rule 4(m) explicitly permits a
24 district court to grant an extension of time to serve the complaint *after* that 120-day period.”). In
25 deciding whether to grant an extension, a district court may consider factors like: “statute of
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1 limitations bar, prejudice to the defendant, actual notice of a lawsuit, and eventual service.”
2 *Efaw v. Williams*, 473 F.3d 1038, 1041 (9th Cir. 2007).

3 In this case, the statute of limitations has not run, and there is little prejudice to the
4 defendant in extending the time allotted to identify and effect service. In fact, by transferring the
5 proceeds of the crime from place to place, and between different digital assets, and even across
6 jurisdictions, the defendant appears to have actively taken (and may still be taking) steps to avoid
7 being identified and served — to the great prejudice of Bitmain. Similarly, it could be argued
8 that the defendant’s crime is continuing, and he or she is acting more like a fugitive than a party
9 whose right can be prejudiced by granting this motion. Either way, there is little argument to
10 support rewarding John Doe for this obfuscation. Defendant may or may not have actual notice
11 of the lawsuit, but the fact remains that he or she has not come forward and his or her identity
12 remains unknown. Bitmain is continuing to follow the trail, and once identified, Bitmain will
13 immediately serve the Defendant with the complaint and summons. For all these reasons, and in
14 the interest of justice, Bitmain believes there is good cause to grant an extension of time to
15 properly serve the Defendant under Federal Rule of Civil Procedure 4(m).

16 Based on the foregoing, Plaintiff respectfully requests that this Court enter an Order
17 allowing them an additional 120 days, through and including June 5, 2019, in which to serve the
18 summons and complaint on the Defendant.

19 RESPECTFULLY SUBMITTED this 4th day of February, 2019.
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By: /s/ Joseph P. Cutler
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CERTIFICATE OF SERVICE

I certify under penalty of perjury that on February 4, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses indicated on the Court's Electronic Mail Notice List.